

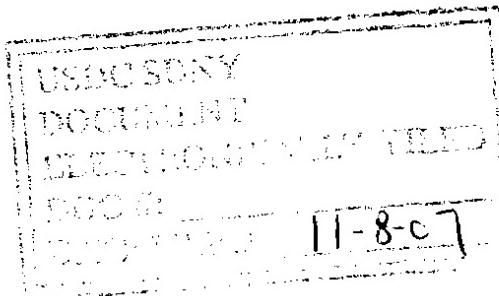
*ACZAN, T*

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*Attorneys for Defendant Merck & Co., Inc.*

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----X  
 IN RE: :  
 Fosamax Products Liability Litigation :  
 -----X  
*This Document Relates to:* :  
 Betty Hamm :  
 v. Merck & Co., Inc. :  
 -----X  
 Case No: 1:07-cv-7292-JFK :  
 -----X



1:06-md-1789 (JFK)

**STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

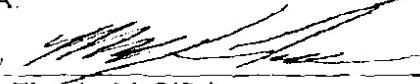
IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Betty Hamm and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

1. This case having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, this case is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court.
3. Each party is to bear its own costs and attorneys' fees.

Dated: October 31, 2007

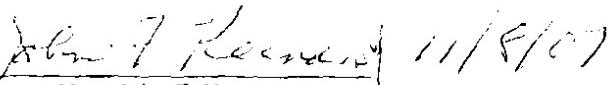
LEVIN, PAPANTONIO, THOMAS,  
MITCHELL, ECHSNER & PROCTOR,  
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By

  
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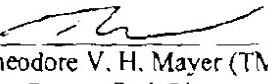
*Attorneys for Plaintiff*

SO ORDERED:

  
Hon. John F. Keenan

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By

  
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